

06-20742-CR-UNGARO-BENAGES/O'SULLIVAN

CASE NO.

18 U.S.C. § 371

Nov 30, 2006

CLARENCE MADDOX
CLERK U.S. DIST. CT.
S.D. OF FLA. - MIAMI**UNITED STATES OF AMERICA****vs.****EVANS ERIC BAROS, JR.,
SAMUEL ELMOWITZ,
a/k/a "JIM BRADY," and
DANA KERRI ELMOWITZ PEARL,
a/k/a "CARRIE GRAND,"****Defendants.****INDICTMENT**

The Grand Jury charges that:

GENERAL ALLEGATIONS

At various times relevant to this Indictment:

1. MasterVend Marketing, Inc. ("MasterVend"), was a Florida corporation. MasterVend's principal place of business was in Miami-Dade County at 2020 NE 163rd Street, Suite 200, North Miami Beach, Florida.
2. MasterVend engaged in the sale of business opportunities to the public. MasterVend purported to sell "Sweet Tooth Sam" vending machines, and "snack and soda" vending machines, along with assistance in establishing, maintaining and operating a vending machine business.
3. MasterVend used various types of sales representatives, including "fronters," "closers," "loaders," and "back from the dead," or "BFD" salesmen. A "fronter" spoke to potential

purchasers when the potential purchaser initially contacted MasterVend in response to an advertisement. A "closer" subsequently spoke to potential purchasers. If the closer was unable to finalize a sale, a "BFD" salesman sometimes called the potential purchaser at a later time to try to bring the deal "back from the dead." Once a purchaser sent money to MasterVend to purchase the business opportunity, a MasterVend "loader" sometimes contacted the purchaser to induce him or her to purchase more vending machines, usually at a discounted price. MasterVend used references who falsely held themselves out as successful MasterVend purchasers.

4. Defendant **EVANS ERIC BAROS, JR.**, was the owner, President, and a salesman for MasterVend.

5. Defendant **SAMUEL ELMOWITZ, a/k/a "JIM BRADY,"** was a reference for MasterVend.

6. Defendant **DANA KERRI ELMOWITZ PEARL, a/k/a "CARRIE GRAND,"** was a reference for MasterVend.

COUNT 1
Conspiracy to Commit Wire Fraud
(18 U.S.C. § 371)

1. Paragraphs 1 through 6 of the General Allegations section of this Indictment are re-alleged and incorporated by reference as though fully set forth herein.

2. From in or around January 2004, until at least in or around February 2005, in Miami-Dade County, in the Southern District of Florida, and elsewhere, the defendants,

EVANS ERIC BAROS, JR.,
SAMUEL ELMOWITZ,
a/k/a "JIM BRADY," and
DANA KERRI ELMOWITZ PEARL,
a/k/a "CARRIE GRAND,"

did willfully, that is, with the intent to further the objective of the conspiracy, and knowingly combine, conspire, confederate and agree with each other and with others, known and unknown to the Grand Jury, to commit certain offenses against the United States, that is to knowingly and with intent to defraud devise, and intend to devise, a scheme and artifice to defraud and to obtain money and property from others by means of materially false and fraudulent pretenses, representations, and promises, knowing that they were false and fraudulent when made, and transmitting and causing to be transmitted certain wire communications in interstate commerce, for the purpose of executing the scheme, in violation of Title 18, United States Code, Section 1343.

PURPOSE OF THE CONSPIRACY

3. It was the purpose of the conspiracy for **EVANS ERIC BAROS, JR., SAMUEL ELMOWITZ, a/k/a "JIM BRADY," and DANA KERRI ELMOWITZ PEARL, a/k/a "CARRIE GRAND,"** and their co-conspirators to unlawfully enrich themselves by obtaining money from potential business opportunity purchasers by making materially false representations, and omitting to state and concealing material facts concerning, among other things, expected profits, the services provided to purchasers, and the authenticity of MasterVend references.

MANNER AND MEANS OF THE CONSPIRACY

The manner and means by which the defendants and their co-conspirators sought to accomplish the object and purpose of the conspiracy included, among others, the following:

4. MasterVend placed advertisements on the Internet, and in other media across the country, touting the huge profits that could supposedly be earned by purchasing a MasterVend business opportunity, and urging potential purchasers to provide contact information to MasterVend via the Internet or through a telephone number that appeared in the newspaper advertisements.

5. Potential purchasers who responded to MasterVend's advertisements were placed in touch with salespeople known as fronters, who would explain the business opportunity. The fronters explained that, for an investment of roughly \$9,995, a purchaser would receive 20 Sweet Tooth Sam vending machines, and contact with a professional locating service that would place the vending machines in high-traffic locations in the purchaser's geographical area. The MasterVend purchaser would then collect money based upon use of the vending machines. MasterVend also offered a snack and soda vending machine business opportunity for \$8,999.

6. After the fronter made his or her sales pitch, "qualified" potential purchasers were transferred to another MasterVend salesperson known as a closer. The closer generally identified himself to potential purchasers as a "Territory Coordinator " who was responsible for setting up purchasers in the potential purchasers' geographic area. In truth, the closers did not specialize in any particular area of the country and took calls from any place in the United States.

7. MasterVend closers, including **EVANS ERIC BAROS, JR.**, sent potential purchasers via commercial interstate carrier professional-looking, glossy brochures touting the profits that could supposedly be made from the MasterVend business opportunity.

8. MasterVend closers, including **EVANS ERIC BAROS, JR.**, made an extended sales pitch to the potential purchaser, normally after the potential purchaser received the brochure. During this sales pitch, the closer made a number of false representations about the MasterVend business opportunity, earnings projections, earnings of prior purchasers, and the help and support MasterVend provided.

9. MasterVend closers, including **EVANS ERIC BAROS, JR.**, provided potential purchasers with the names of references who they falsely claimed purchased and had success

operating MasterVend vending machines. The false references, including **SAMUEL ELMOWITZ**, a/k/a **"JIM BRADY,"** and **DANA KERRI ELMOWITZ PEARL**, a/k/a **"CARRIE GRAND,"** were paid by MasterVend.

10. In telephone calls with potential purchasers, **SAMUEL ELMOWITZ** used the assumed name **"JIM BRADY,"** and **DANA KERRI ELMOWITZ PEARL** used the assumed name **"CARRIE GRAND."**

11. If the MasterVend closer was unsuccessful in closing the deal, a "back from the dead," or "BFD" salesman sometimes called the potential purchaser back within a few days or weeks in an attempt to resurrect the deal. BFD salesmen typically falsely represented that another person had cancelled a large order of vending machines for personal reasons and that, as a result, MasterVend could offer these vending machines to the purchaser for a substantially reduced price.

12. Once purchasers agreed to make a purchase, closers instructed the purchaser to fill out a purchase order and send it back to MasterVend, along with payment for the business opportunity. Payments were made either by check via commercial interstate carrier or United States Postal Service, or by bank wire.

13. MasterVend salesmen, including **EVANS ERIC BAROS, JR.,** used a transaction called a "load" to induce individuals who purchased the MasterVend business opportunity to purchase more vending machines. Once a purchaser sent in his or her money to MasterVend for an initial purchase and that money cleared, a MasterVend loader sometimes would contact the purchaser within a few days or weeks for the purpose of soliciting an additional investment. The loader typically falsely claimed that another person had cancelled a large order of vending machines for

personal reasons and that, as a result, MasterVend could offer these vending machines to the purchaser for a substantially reduced rate.

14. To fraudulently induce individuals to purchase business opportunities, the defendants made, and caused others to make, numerous materially false statements, and concealed and omitted to state, and caused others to conceal and omit to state, material facts, including, among others, the following:

Materially False Statements

(a) That MasterVend was a profitable business opportunity, guaranteeing profitability, when in truth and in fact, there was no basis for such a guarantee;

(b) That 80% of MasterVend business opportunity purchasers had ordered additional vending machines from MasterVend because they were successful, when in truth and in fact, there were no repeat buyers;

(c) That MasterVend would help secure high-traffic, profitable locations for its distributors to place their vending machines in the distributor's respective local areas, when in truth and in fact, MasterVend knew that buyers were not receiving high-traffic, profitable locations;

(d) That certain references whom MasterVend's sales representatives encouraged potential purchasers to call had previously purchased one or more Sweet Tooth Sam or snack and soda vending machines from MasterVend, when in truth and in fact, those references did not pay for their vending machines and did not operate their own MasterVend vending machines;

(e) That the MasterVend vending machines operated by certain references were profitable, when in truth and in fact, those references earned profit from taking calls from potential purchasers, not from Sweet Tooth Sam or snack and soda vending machines;

Omission and Concealment of Material Facts

- (f) That the principal and salespeople at MasterVend had a history of selling various sorts of failed business opportunities;
- (g) That frequently used references were relatives of a MasterVend employee; and
- (h) That MasterVend references were paid by MasterVend for speaking to potential purchasers.

OVERT ACTS

In furtherance of the conspiracy and to achieve the object and purpose thereof, at least one of the co-conspirators committed or caused to be committed, in the Southern District of Florida and elsewhere, at least one of the following overt acts, among others:

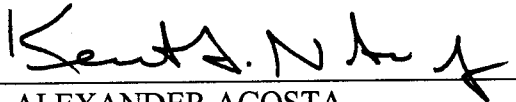
1. In or around April 2004, **SAMUEL ELMOWITZ, a/k/a "JIM BRADY,"** in Miami-Dade County, Florida, using the false name "Jim Brady," spoke by telephone with S.S., of Norcross, Georgia, about a MasterVend business opportunity.
2. In or around April 2004, **DANA KERRI ELMOWITZ PEARL, a/k/a "CARRIE GRAND,"** in Miami-Dade County, Florida, using the false name "Carrie Grand," spoke by telephone with B.G., of Florence, Kentucky, about a MasterVend business opportunity.

3. In or around August 2004, **EVANS ERIC BAROS, JR.**, in Miami-Dade County, Florida, solicited L.M., of Westfield, Indiana, by telephone to purchase a MasterVend business opportunity.

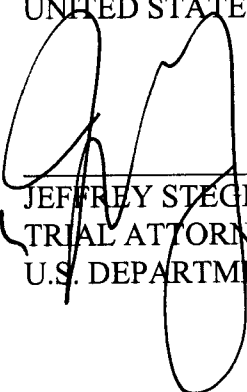
All in violation of Title 18, United States Code, Section 371.

A TRUE BILL

FOREPERSON



R. ALEXANDER ACOSTA
UNITED STATES ATTORNEY



JEFFREY STEGER
TRIAL ATTORNEY
U.S. DEPARTMENT OF JUSTICE

UNITED STATES OF AMERICA

CASE NO. _____

vs.

CERTIFICATE OF TRIAL ATTORNEY*

EVANS ERIC BAROS, JR., et al,

Defendants.

Superseding Case Information:

Court Division: (Select One)

X Miami _____ Key West _____
 _____ FTL _____ WPB _____ FTP _____

New Defendant(s) _____ Yes _____ No _____
 Number of New Defendants _____
 Total number of counts _____

I do hereby certify that:

- I have carefully considered the allegations of the indictment, the number of defendants, the number of probable witnesses and the legal complexities of the Indictment/Information attached hereto.
- I am aware that the information supplied on this statement will be relied upon by the Judges of this Court in setting their calendars and scheduling criminal trials under the mandate of the Speedy Trial Act, Title 28 U.S.C. Section 3161.

- Interpreter: (Yes or No) No
 List language and/or dialect _____

- This case will take 10 days for the parties to try.

- Please check appropriate category and type of offense listed below:
 (Check only one) (Check only one)

I	0 to 5 days	_____	Petty	_____
II	6 to 10 days	<u>X</u>	Minor	_____
III	11 to 20 days	_____	Misdem.	_____
IV	21 to 60 days	_____	Felony	<u>X</u>
V	61 days and over	_____		

- Has this case been previously filed in this District Court? (Yes or No) No

If yes:

Judge: _____

Case No. _____

(Attach copy of dispositive order)

Has a complaint been filed in this matter? (Yes or No) No

If yes:

Magistrate Case No. _____

Related Miscellaneous numbers: _____

05-2196-RID

Defendant(s) in federal custody as of _____

Defendant(s) in state custody as of _____

Rule 20 from the _____ District of _____

Is this a potential death penalty case? (Yes or No) No

- Does this case originate from a matter pending in the U.S. Attorney's Office prior to April 1, 2003? _____ Yes X No
- Does this case originate from a matter pending in the U. S. Attorney's Office prior to April 1, 1999? _____ Yes X No
 If yes, was it pending in the Central Region? _____ Yes _____ No
- Does this case originate from a matter pending in the Northern Region of the U.S. Attorney's Office prior to October 14, 2003? _____ Yes X No
- Does this case originate from a matter pending in the Narcotics Section (Miami) prior to May 18, 2003? _____ Yes X No

Jeffrey Steger
 DOJ Trial Attorney
 Court No. A5500681

*Penalty Sheet(s) attached

REV. 1/14/04

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

PENALTY SHEET

Defendant's Name: Evans Eric Baros, Jr. **Case No:** _____

Count #: 1 - 18 U. S.C. § 371

Conspiracy to commit wire fraud

***Max Penalty:** 5 years' imprisonment

Count #:

***Max Penalty:** _____

Count #:

***Max Penalty:** _____

Count #:

***Max Penalty:** _____

***Refers only to possible term of incarceration, does not include possible fines, restitution, special assessments, parole terms, or forfeitures that may be applicable.**

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

PENALTY SHEET

Defendant's Name: Samuel Elmowitz, a/k/a "Jim Brady" **Case No:** _____

Count #: 1 - 18 U. S.C. § 371

Conspiracy to commit wire fraud

***Max Penalty:** 5 years' imprisonment

Count #:

***Max Penalty:** _____

Count #:

***Max Penalty:** _____

Count #:

***Max Penalty:** _____

***Refers only to possible term of incarceration, does not include possible fines, restitution, special assessments, parole terms, or forfeitures that may be applicable.**

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

PENALTY SHEET

Defendant's Name: Dana Kerri Elmowitz Pearl, a/k/a "Carrie Grand" **Case No:** _____

Count #: 1 - 18 U. S.C. § 371

Conspiracy to commit wire fraud

***Max Penalty:** 5 years' imprisonment

Count #:

***Max Penalty:** _____

Count #:

***Max Penalty:** _____

Count #:

***Max Penalty:** _____

***Refers only to possible term of incarceration, does not include possible fines, restitution, special assessments, parole terms, or forfeitures that may be applicable.**